

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL ACTION NO. 2-01-cr-51

VAUGHAN DIEGO BUTLER,

Defendant.

MEMORANDUM OPINION AND JUDGMENT ORDER

Pending before the Court is the defendant's motion, brought pursuant to 18 U.S.C. § 3582(c)(2), for a reduction in sentence based on a subsequent reduction in the applicable sentencing guideline. On November 1, 2007, the United States Sentencing Guidelines were amended to reduce by two levels the guidelines in Section 2D1.1 for cocaine base (also known as crack). Subsequently, the Sentencing Commission amended Section 1B1.10 to make the crack amendment retroactive, effective March 3, 2008. Pursuant to a Standing Order entered on February 6, 2008, this case was designated for Standard consideration.

The Court has received and considered the original Presentence Investigation Report (PSI), original Judgment and Commitment Order and Statement of Reasons, plea agreement, and addendum to the PSI from the Probation Office, and received any materials submitted by the parties on this issue. The Court has also considered the applicable factors under 18 U.S.C. § 3553(a), consistent with § 3582(c)(2), and public safety.

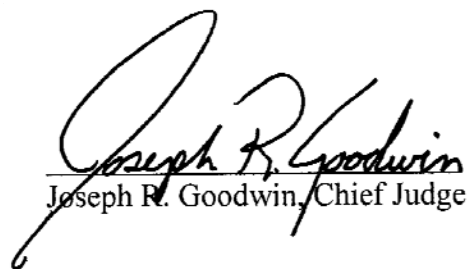
The defendant's original base offense level was 34. Two levels were added for the possession of a firearm, and three levels were subtracted for the defendant's acceptance of responsibility. The

defendant's total offense level was 33. A total offense level of 33 and a criminal history category of V resulted in an original guideline range of 210 to 262 months. The court sentenced the defendant to 210 months imprisonment.

The United States has indicated that it does not oppose a reduction. Based on the foregoing considerations, the defendant's motion is **GRANTED**. The Court **ORDERS** that the defendant's base offense level be reduced by two levels, resulting in a new total offense level of 31 and a guideline range of 168 to 210 months. It is further **ORDERED** that defendant's previous sentence be reduced to a period of **168** months, with credit for time served to date. This Order is subject to the prohibition contained within U.S.S.G. §1B1.10(b)(2)(C).

The Court **DIRECTS** the Clerk to send a copy of this Order to the defendant and counsel, the United States Attorney, the United States Probation Office, the Federal Bureau of Prisons and the United States Marshals.

ENTER: April 15, 2008


Joseph R. Goodwin, Chief Judge